

REMARKS/ARGUMENTS

Claims 1-8 and 26-34 are active.

Applicants thank the Examiner for the courtesy of meeting with their undersigned representative on June 1, 2010. During this discussion, it was acknowledge with gratitude that Claims 26-34 are allowed (the claims that specifically exclude the compound in the cited U.S. '833 patent) and the maintained rejection citing the U.S. '833 patent to Claims 1-8.

As stated in Claim 1 in this application:

A method of increasing platelets in a human having a disease selected from the group consisting of thrombocytopenia caused by bone marrow transplantation, thrombocytopenia caused by surgery, thrombocytopenia caused by infection, thrombocytopenia caused by gastrointestinal bleeding, aplastic anemia, idiopathic thrombocytopenic purpura, myelodysplastic syndrome, and thrombopoietin deficiency

The Examiner's rejection relies on the theory of inherency that when the patients in the '833 patent are targeted, inherently thrombocytopenia is treated (as shown in the secondary citation of Vadhan-Raj). It was respectfully submitted that this position is incorrect. That is, treating cancer patients as in the '833 patent (which may or may not have thrombocytopenia) is a different patient population than treating any of the diseases listed in Claim 1 (see above). The supporting publications indicates that in cancer patients thrombocytopenia is a problem. However, the patient population in the '833 patent is unquestionably cancer patients not any of the indications in Claim 1. Indeed, the documents cited in support of the '833 patent do not state that all patients who have thrombocytopenia are cancer patients, the subject population that the '833 patent targets, but instead the other way around, i.e., that some cancer patients may have thrombocytopenia.

The Vadhan-Raj publication does not establish that those in need of tumor treatment are necessarily the same as those in need of increased platelets, regardless of whether when the xanthocillin X compound is administered inherently induces platelets in the cancer

Application No. 10/524,666
Reply to Office Action of May 3, 2010

patients. The Examiner has not established that the prior art cited specifically targets patients in need of increased platelets. Furthermore, it cannot be disputed that the art cited in the rejection do not describe explicitly or inherently, the conditions listed in amended claim 1. Accordingly, withdrawal of the rejection is requested.

Applicants submit the present application is now in condition for allowance. Early notification to this effect is earnestly solicited.

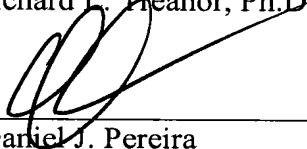
Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Richard L. Treanor, Ph.D.

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)



Daniel J. Pereira
Attorney of Record
Registration No. 45,518